

# **U.S. ARMY PROCUREMENT POLICY ALERT BULLETIN**

NO. 96-008

August 5, 1996

The enclosed documents are forwarded for your information and any necessary implementation in advance of formal publication of a Federal Acquisition Circular (FAC), or Defense Acquisition Circular (DAC). There will be no Department of the Army-level supplementation or implementing instructions.

## **ENCLOSURES:**

1. DPP Memorandum, Subject: Extension of Class Deviation--Interim Payments and Contract Closeout, DAR Tracking Number: 9600004, July 12, 1996.
2. DPP Memorandum, Subject: Class Deviation--Reutilization Screening for Department of Defense (DoD) Special Tooling, DAR Tracking Number: 96-00006, July 29, 1996.

This bulletin is issued by the U.S. Army Contracting Support Agency. Comments or questions should be referred to the Policy and Procedures Division, SFAE-CSA-PP, 5109 Leesburg Pike, Suite 916, Falls Church, Virginia 22041.

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Bulletin 96-008 consists of 9 pages.

Release Approved By: TWC 8/5/96



OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON DC 20310-3000



12 JUL 1996

In reply refer to DAR Tracking Number: 96-00004

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES

DEPUTY FOR ACQUISITION POLICY, INTEGRITY, AND  
ACCOUNTABILITY, ASN(RD&A)/API&A  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC  
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP  
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Extension of Class Deviation--Interim Payments and Contract Closeout

I extend the authority for all military departments and defense agencies to use the attached text and clauses which provide for increased use of quick contract closeout procedures and interim payments to contractors under certain circumstances.

FAR 42.704 is amended to permit, with certain restrictions, contractor use of billing rates contained in certified final indirect cost rate proposals. The FAR 42.708(a)(2)(i) threshold for total unsettled indirect costs allocable to any one contract is raised from \$500,000 to \$1 million. The FAR 42.708(a)(2)(ii) threshold is revised to permit waiver of the 15 percent restriction on contracting officer rate settlement based upon a risk assessment. The clauses at 52.216-7 and -13 are revised to establish a timeframe for contractor submission of final vouchers. The clauses at 52.216-8, -9, and -10 are revised to require release of 75 percent of all fee withholds under physically completed cost-type contracts, and to permit release of 90 percent of all withholds in certain circumstances.

I am extending the class deviation for a one-year period ending July 31, 1997, or until the FAR is revised, whichever occurs first.

Eleanor R. Spector  
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir

# FAR Text and Clauses

## PART 42 CONTRACT ADMINISTRATION

\*\*\*\*\*

### SUBPART 42.7 -- INDIRECT COST RATES

\*\*\*\*\*

#### 42.704 Billing rates.

(a) - (d) \* \* \*

**[(e) When the contractor provides to the cognizant contracting officer the certified final indirect cost rate proposal in accordance with 42.705-1 (b) or 42.705-2 (b), the contractor may bill the proposed indirect cost rates (adjusted for any historical disallowed amounts found in prior years' final indirect cost rate proposals), until the proposal has been audited and settled.]**

\* \* \* \* \*

#### 42.705 Final indirect cost rates.

—  
[(a)] Final indirect cost rates shall be established on the basis of (a[1]) contracting officer determination procedure (see 42.705-1) or (b[2]) auditor determination procedure (see 42.705-2)

**[(b) Within 120 days after settlement of the final indirect cost rates, the contractor shall submit a completion invoice or voucher reflecting the settled amounts and rates on all contracts physically completed in the year covered by the proposal.]**

#### 42.708 Quick-closeout procedures.

—  
(a) The contracting officer responsible for contract closeout may **shall** negotiate the settlement of indirect costs for a specific contract, in advance of the determination of final indirect cost rates, if-

(1) **No change**

(2) The amount of unsettled indirect cost to be allocated to the contract is relatively insignificant. Indirect cost applicable amounts will be considered insignificant when--

—  
(i) The total unsettled ~~indirect cost~~ applicable **[to be allocated]** to any one contract does not exceed \$500,000 **[\$1,000,000]; and**

(ii) Unless otherwise provided in agency procedures, the cumulative unsettled indirect costs to be allocated to one or more contracts in a single fiscal year do not exceed 15 percent of the estimated, total unsettled indirect costs allocable to cost-type contracts for that fiscal year. **[The contracting officer may waive the 15 percent restriction based upon risk assessment that considers**

contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information]; and

\* \* \* \* \*

## PART 52 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

\* \* \* \*

### SUBPART 52.2--TEXTS OF PROVISIONS AND CLAUSES

\* \* \* \*

#### 52.216-7 Allowable Cost and Payment

\* \* \* \*

#### ALLOWABLE COST AND PAYMENT (JUL 1991) (DEVIATION)

\* \* \* \*

(d) *Final indirect cost rates.*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) [Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5)] Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

\* \* \* \* \*

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~~(f) Quick closeout procedures. When the Contractor and Contracting Officer agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used. [Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.]~~

\* \* \* \* \*

(h) Final payment

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~~(1) The Contractor shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as the Contracting Officer may approve in writing) from the completion date. Upon approval of that [a completion] invoice or voucher [submitted by~~

**the Contractor in accordance with (d)(4)], and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.**

\* \* \* \* \*

#### **52.216-8 Fixed Fee.**

\* \* \* \* \*

**FIXED FEE (APR 1984) (DEVIATION)**

\* \* \* \* \*

**(b) \* \* \* [The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withhold under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.]**

\* \* \* \* \*

#### **52.216-9 Fixed Fee - Construction.**

\* \* \* \* \*

**FIXED FEE - CONSTRUCTION (APR 1984) (DEVIATION)**

**(c) \* \* \* [The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withhold under this contract based on the Contractors past performance related to the submission and settlement of final indirect cost rate proposals.]**

\* \* \* \* \*

#### **52.216-10 Incentive Fee.**

\* \* \* \* \*

**INCENTIVE FEE (APR 1984) (DEVIATION)**

\* \* \* \*

*(c) Withholding of payment.* \* \* \* [ The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withhold under this contract based on the Contractors past performance related to the submission and settlement of final indirect cost rate proposals.]

\* \* \* \* \*

## 52.216-13 Allowable Cost and Payment-Facilities

\* \* \* \*

### ALLOWABLE COST AND PAYMENT - FACILITIES (FEB 1995) (DEVIATION)

\* \* \* \*

*(c) Negotiated indirect costs.* \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) [Within 120 days after settlement of the final indirect cost rate covering the year in which this contract is physically complete, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5) ] Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

\* \* \* \* \*

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~~(c) Quick-closeout procedures. When the Contractor and Contracting Officer agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used.~~  
[Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.]

\* \* \* \* \*

### Alternate I (APR 1984) (DEVIATION)

\* \* \* \* \*

(h) Final Payment.

~~(1) The Contractor shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as the Contracting Officer may approve in writing) from the completion date. Upon approval of that [a completion] invoice or voucher [submitted by the Contractor in accordance with (c)(4)], and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs not previously paid.~~



**OFFICE OF THE UNDER SECRETARY OF DEFENSE**  
3000 DEFENSE PENTAGON  
WASHINGTON DC 20310-3000



29 JUL 1996

In reply refer to DAR Tracking Number: 96-00006

**MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES**

DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,  
ASN (RD&A)/ABM  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC  
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP  
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

**SUBJECT: Class Deviation--Reutilization Screening for Department of Defense (DoD) Special Tooling**

Effective immediately, all military departments and defense agencies shall use only the agency screening procedures prescribed in Federal Acquisition Regulation (FAR) 45.608-3 for DoD special tooling. The limited screening prescribed in FAR 45.608-1(b) and 45.608-4 is not required for DoD special tooling.

FAR 45.608-1(b) and 45.608-4 require a 30-day General Services Administration (GSA) reutilization screening period following a 30-day agency screening period for excess special tooling. The Acting Administrator, GSA, has exempted DoD special tooling from the GSA reutilization screening process; but still requires the 30-day agency screening prescribed in FAR 45.608-3. I am, therefore, authorizing this deviation from the requirements in FAR 45.608-1(b) and 45.608-4 for DoD special tooling.

This class deviation is approved for a one-year period ending July 31, 1997, or until the DFARS is revised, whichever event occurs first.

Eleanor R. Spector  
Director, Defense Procurement